



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, N.H. 03301

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 22-32

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-32. Based on the findings of fact in the investigation, I am issuing my written decision as well as providing a copy of the investigator's report.

Below is a description of the allegation, as well as a summary of the investigator's findings of facts based on the evidence submitted by all parties to this matter. If an allegation is substantiated, a finding of noncompliance with special education law, then there will be a corrective action required of the district to remedy any violations of special education law. The corrective action is intended to ensure compliance with IDEA by addressing the needs of the child and the appropriate future provision of services for all children with disabilities.

By way of relevant background, the scope of this investigation is from [REDACTED] [REDACTED]. However, during the investigation the parent clarified that her concerns are related to the [REDACTED] school year. The following documents are relevant to the timeframe:

- IEP 1- dated [REDACTED], signed in consent by the parent on [REDACTED]
 - Amended on [REDACTED], signed in consent by the parent on [REDACTED]

Allegation 1- Unsubstantiated

The first allegation in this matter is that [REDACTED] has failed to comply with Ed 1109.03(a), which, in relevant part, provides that:

The LEA shall provide special education, related services, supplementary aids and services, accommodations, and modifications to a child with a disability in accordance with the child's IEP.

Specifically, the complainant asserts that [REDACTED] has not provided the speech, OT, and counseling services as provided for in the IEP during the complaint period, [REDACTED].

According to the IEP, the following services were to be provided:

- Speech Group, 2 times per week for 15 minutes;
- Speech Group, 2 times per week for 20 minutes;
- Counseling, Individual with School Psychologist, 1 time per week for 20 minutes; and
- Occupational Therapy with OT, 2 times per week for 15 minutes.

The school provided service logs for the duration of the complaint period for speech therapy, occupational therapy and counseling services. The logs indicated that the student was provided with the services in accordance with the IEP. The logs did indicate that there were sessions where the student was absent or refused to engage. Despite the absences or the student's refusal to engage, all evidence indicates that the district was in compliance with the service provisions of the IEP.

Allegation 2- Substantiated

Similar to the first allegation, the second allegation in this matter is that [REDACTED] failed to comply with Ed 1109.03(a),

The LEA shall provide special education, related services, supplementary aids and services, accommodations, and modifications to a child with a disability in accordance with the child's IEP.

Specifically, the complainant asserts that [REDACTED] has not provided their child with a 1:1 paraprofessional as provided for in the IEP during the complaint period, [REDACTED].

By way of relevant background, the following services were to be provided:

- 1:1 paraprofessional support from RBT for [REDACTED];
- Guided Study coordinated by special ed teacher, provided by paraeducator, 1 time per day for 45 minutes (beginning [REDACTED]).

The district provided documentation that paraprofessional 1:1 supports were provided to the student until [REDACTED], when an IEP team meeting occurred. According to the documentation, the 1:1 paraprofessional support was discussed, and the IEP team agreed to move the student to an optional access service—meaning the student would access the

paraprofessional when necessary. This change was implemented by the district on the same date. However, the IEP was never amended to reflect this change. Despite the alleged verbal agreement to the change, an IEP amendment was necessary prior to implementing the change. As such, the student did not have access to a 1:1 paraprofessional between [REDACTED]

Allegation 3- Withdrawn

The third allegation in this matter is that [REDACTED] failed to comply with Ed 1109.04(b), which, in relevant part, provides that:

The LEA shall maintain written evidence documenting implementation of the IEP.

The complainant asserts that [REDACTED] does not have written documentation of services provided for the complaint period, [REDACTED]

The complainant shared with the investigator that she was able to locate the documentation and therefore motioned to withdraw this particular allegation.

Conclusion:

When an IEP team discusses changes to an already agreed upon IEP there is a process to follow prior to implementing the verbally agreed upon changes. That process was not followed in this case, resulting in the districts failure to provide services as provided for in the consented IEP. Had the district amended the IEP and provided the parent with the proper paperwork, this could have been avoided.

It is clear in reading the original complaint from the parent that there are some trust and communication difficulties with the IEP team. The team needs to work collaboratively to successfully meet the needs of the student they are representing.

Corrective Action:

[REDACTED] will provide training to all special education staff regarding the process of changing an already agreed upon IEPs. Evidence of this corrective action must be submitted to the Department of Education, 25 Hall Street, Concord, NH 03301 by [REDACTED].

A team meeting will be held to determine whether the lack of 1:1 support negatively impacted the student between [REDACTED]. Evidence of the corrective action must be submitted to the Department of Education, 25 Hall Street, Concord, NH 03301 by [REDACTED]

We hope that in the future the district and parent will work together to resolve any differences that may arise.

Frank Edelblut
Commissioner of Education
NH Department of Education